

## **REMARKS**

The Office Action of February 20, 2004 has been carefully studied. The fee for the one month extension of time is attended to by the attached check.

The claims in the case are now 1-7, 11, 12 and 14-34, with claims 28-34 being newly added.

The following paragraphs correspond to the order of the paragraphs of the Office Action.

### ***Claims Interpretation***

It is respectfully submitted that in those claims such as claim 2 where the expression "of up to 50% by weight is employed, this expression cannot read on zero because preceding the percentage it is stated that the wetting agent "is present". If it is present, there is necessarily more than 0%. If the Examiner favors different wording for this expression, Applicants would not be adverse to such wording as long as it is understood that the wetting agent is actually present.

### ***Claim Rejections - 35 U.S.C. 112***

With respect to the rejection of claims 1-8 and 10-25 as being indefinite on the grounds that in claims 6 and 8, the organic base may be the same as the solvent, it is noted that claim 1 now indicates that the organic base comprises mineral oil and claim 6 specifies that the solvent comprises an alcohol or a hydroalcoholic mixture, with claims 8 and 10 being cancelled. Conversely, it is seen on page 9, lines 7-9, that the organic base can itself act as a solvent or diluent for the emulsion breaking agent and/or wetting agent. Thus, with respect to composition claims 12, 14, 15, 16, 18 and 21, it is intended that the organic base and component (B) can be the same or different. New dependent claims 29-31, conversely, specify that the organic base is a mineral oil. It is further noted that claim 24 specifies that the organic base comprises a mineral oil and also specifies that the emulsion is produced in the treatment of a well bore drilled in an oil-based mud.

It is believed that all the claims are now definite, but if there are any remaining problems under 35 U.S.C. 112, Applicants would be amenable to making further amendments to resolve such issues expeditiously.

### ***Claim Rejections - 35 U.S.C. 102***

Claim 24 is rejected in the Office Action as being anticipated by Farnand 4,738,795 on the grounds that Farnand teaches the use of various acetate esters for emulsification of water-and-oil emulsions on the one hand and since in Applicants' claim 24, the organic base and B may be the same. It is seen that the claim is amended so that the organic base comprises a mineral oil and therefore is not the same as component (B). Also, it is respectfully submitted, on information and belief, that acetate esters are not produced from fatty acids derived from natural, vegetable or animal oils. Acetates are based on acetic acid and, on information and belief, acetic acid are not industrially derived from natural, vegetable or animal oils. That acetic acid is not obtained from a natural, vegetable or animal oil, is seen from Wikipedia, The Free Encyclopedia, website [Http://en.wikipedia.org/wiki/Acetic\\_acid](http://en.wikipedia.org/wiki/Acetic_acid), the industrial method for producing acetic acid are methanol carbonylation (the major method), butane oxidation (10%), and acetaldehyde oxidation (the second most widely used method).

Still further, it is seen that claim 24 specifies that the emulsion is produced in the treatment of a well bore drilled in an oil-based mud. Thus, it is respectfully submitted that Farnand neither anticipates nor makes obvious claim 24. Note that table 2 of the reference sets forth 143 different emulsion-breaking agents, with only 7 acetates being mentioned. Thus, there would be no motivation for one of ordinary skill in the art to focus on the use of an acetate, much less modify the acetate so that it becomes an ester of a higher fatty acid, such as those obtained from natural, vegetable or animal oils.

Claims 1, 6 and 8 were rejected under 35 U.S.C. 102(e) on the grounds that Hopkins (6,476,492) teaches a composition comprising fatty esters, vegetable oils and tall oil. In view of the amendment to claim 1 which specifies that the organic emulsion-breaking formulation comprises a mineral oil as an organic base, it is clear that the Hopkins reference is not applicable to claims 1 and 6, claim 8 being presently cancelled. Furthermore, since the Hopkins disclosure is directed to a method for preventing corrosion, not a method for breaking emulsions, it is respectfully submitted that there would be no motivation for one of ordinary skill in the art to add a mineral oil to the Hopkins compositions. Accordingly, it is respectfully submitted that the Hopkins teachings are not applicable under 35 U.S.C. 102(e) or under 35 U.S.C. 103 to the

claims at issue.

Claims 12, 15, 16, 18 and 20, as being anticipated under 35 U.S.C. 102(e) by Kircheville (6,662,871) is removed by the present filing of a certified translation of Applicants' French priority document 00/15.198 filed November 24, 2000, thereby providing the present application with the latter effective filing date which antedates the effective filing date of Kircheville of the parent application filed on January 10, 2001, now Patent No. 6,435,276. Furthermore, the Kircheville teachings relate to oils in an emulsion form used as a spotting fluid for its lubricating properties, not for breaking emulsions.

Claims 12, 15, 16, 18 and 20 were rejected under 35 U.S.C. 102(b) as being anticipated by Mueller (6,022,833). Claims 16, 18 and 20 are dependent on claim 15 which is now dependent on claim 12 which now incorporates the substance of non-rejected claim 13, i.e. at least one cross-linked organosoluble acrylic acid as the viscosifying agent. Claim 14 is also made allowable by setting forth that claim in independent form wherein the wetting agent comprises a mass of particulate calcium carbonate. The same is true with respect to claim 21 which is rewritten in independent form so as to focus on the allowability of incorporating the anionic wetting agent into original claim 12. In addition, Applicants wish to point out, on information and belief, that the particular drilling fluid of Mueller serves to permit the emulsion to invert when the temperature increases upon reaching the surface. This facilitate cuttings recovery as these cuttings would then be in the aqueous phase. Thus, the emulsifying component of Mueller is not used as an emulsion breaking agent but as an emulsion-inverting agent in the drilling fluid itself. Conversely, according to Applicants' preferred embodiment, the demulsifying component in Applicants' invention is not part of the drilling fluid composition, but instead is added to the drilling fluid to eliminate the filter cake formed in the well by breaking the emulsion inside the filter cake.

#### ***Newly Added Claims***

Claim 28 corresponds to claim 21 but is dependent on claim 14. Claim 29 is dependent on claim 12 and specifies that the organic phase is a mineral oil. Claims 30 and 31 mirror claim 29 but are dependent on claims 14 and 21 respectively. Claim 32 mirrors claim 24 without any

amendments but with the cancellation of the term "optionally" before --at least one wetting agent-- thereby providing claim 24 with a wetting agent which renders the composition both novel and unobvious over the references.


Finally, it is seen that claim 33 is directed to the combination of at least one anionic surfactant and at least one non-ionic amphiphilic composition obtained by reacting at least one polymerized vegetable oil or at least one amino-alcohol. This composition is useful as an intermediate composition for the formulations of the invention which comprise an organic base. Claim 34 mirrors claim 3 but is dependent on new claim 33. In the absence of Counsel's appreciation of the pertinent reference, claims 33 and 34 may be novel and unobvious.

In view of the amendments to the claims and the above discussion of the references as well as the submission of the certified English translation of Applicants' priority document, it appears that the application is now in condition for allowance. If, however, there are any remaining issues which can be expeditiously resolved by a telephone conference, the Examiner is courteously invited to telephone Counsel at the number indicated below.

Accordingly, in the absence of more pertinent references, it appears that the application is in condition for allowance or substantially so.

The Commissioner is hereby authorized to charge any fees associated with this response or credit any overpayment to Deposit Account No. 13-3402.

Respectfully submitted,

  
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